

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:)	CASE NO. 16-14047
)	
TAMMY WARREN)	CHAPTER 7 PROCEEDING
)	
Debtor.)	JUDGE ARTHUR I. HARRIS

MOTION FOR SANCTIONS FOR VIOLATION OF AUTOMATIC STAY

Now comes Debtor, by and through counsel, and hereby moves this Honorable Court for an award of sanctions pursuant to 11 U.S.C. § 362(k)(1) against Daniel Mieras (the “Landlord”) due to his repeated wilful violations of the automatic stay provisions of 11 U.S.C. § 362, including, but not limited to Debtor’s expenses and legal fees incurred as a result of the continuing harassment and collection activities.

For cause, Debtor filed a Chapter 7 Bankruptcy petition herein on July 25, 2016, and duly listed her Landlord as a creditor in both Schedules F & G. Debtor immediately notified the Landlord of her bankruptcy proceeding upon filing, but he continues to show up at her residence, leave notices, and park in the street for prolonged periods of time. The Landlord also commenced an eviction action against Debtor in the Euclid Municipal Court on August 3, 2016 in violation of the automatic stay pursuant to 11 U.S.C. § 362 (see attached). After the state court was notified of Debtor’s pending bankruptcy proceeding, the Landlord proceeded to file a Motion for Relief from Stay with this Court on August 11, 2016. Despite his undeniable knowledge of Debtor’s bankruptcy and the automatic stay, the Landlord continues to leave notices and park in front of her residence. These actions have scared and greatly intimidated Debtor and her family, and constitute attempts to obtain possession and control of property from the bankruptcy estate and/or Debtor, and to recover a pre-petition claim from Debtor, in violation of the automatic stay. 11 U.S.C. § 362(a)(1), (3), (5) & (6).

Given the Landlord's persistence in contacting and harassing Debtor, his actions in this case must be deemed as wilful and egregious.

WHEREFORE, Debtor moves this Court for an award of his actual damages, including costs and attorney's fees to be adduced at trial or via affidavit, together with punitive damages and such other and further relief as the Court deems proper. Debtor further demands that the Landlord be ordered to purge his violation of the automatic stay in this matter by dismissing his complaint against Debtor in the state court as filed after Debtor's bankruptcy filing, and then restarting the eviction process in compliance with Ohio law

Respectfully submitted,

/s/ Charles J. Van Ness
Charles J. Van Ness (0047365)
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CERTIFICATE OF SERVICE

A copy of the foregoing Objection was sent via regular U.S. Mail (or ECF) on August 16, 2016, to the following parties:

David O. Simon (via ECF)
Chapter 7 Trustee
david@simonlpa.com

Sarah S. Graham (via ECF)
Attorney for Daniel Mieras
sgraham@pfl-law.com

Daniel Mieras
9615 Denison Ave.
Cleveland, OH 44102

Mardok LLC
32818 Walker Rd., Suite 295
Avon Lake, OH 44012

/s/ Charles J. Van Ness
Charles J. Van Ness (0047365)
Attorney for Debtor

Civil Case Summary**General Information**

Case Number : 16CVG02876
Case Name : DANIEL MIERAS v. TAMMY WARREN
Date Filed : 8/3/2016
Case Status : Open

Parties

Party Name	Party Address	Attorney Name	Label
DANIEL MIERAS	9615 DENISON AVENUE CLEVELAND, OH 44102	ROBERT FRIEDMAN	Plaintiff
TAMMY WARREN	840 EAST 236TH STREET EUCLID, OH 44123		Defendant

Services

Requested For	Requested On	Requested By	Party Served	Method	Status	Completed On
FED 2ND CAUSE	8/11/2016	DANIEL MIERAS	TAMMY WARREN	Regular Mail w/receipt	Perfected	8/11/2016
FED 2ND CAUSE	8/11/2016	DANIEL MIERAS	TAMMY WARREN	Bailiff in Euclid	Failed	8/12/2016

Claims/Judgments

Claim Number	Claim Description	Date Filed	Claim Type	Prayer Amount
1	DANIEL MIERAS v. TAMMY WARREN	8/3/2016		\$15,000.00
	Judgment Number	Judgment	Judgment Date	Judgment Amount
	1		8/12/2016	

Hearing Information

Description	Court Date	Court Time	Court Room	Heard By
1st Cause/Judge	9/6/2016	9:00:00 AM	2	

Docket Information

NOTE: The Docket Information below is an abbreviated version of the actual Docket Entry. Only the first 60 characters of each line will show.

[Click Here](#) to display Full Docket Entry or contact the court for the full text entry.

Entry Date	Entry
8/12/2016	Civil Journal Bankruptcy created in Book 127 Page 425
8/12/2016	Judgment BANKRUPTCY STAY for TAMMY WARREN rendered. Judge
8/12/2016	NOTICE filed by DANIEL MIERAS/Plaintiff on 08/12/2016 /by a
8/12/2016	Service for FED 2ND CAUSE to TAMMY WARREN sent via Bailiff i
8/11/2016	Return of Service Form Notice sent to TAMMY WARREN
8/11/2016	FED 2ND CAUSE notice sent to TAMMY WARREN via Regular Mail w
8/11/2016	Service for FED 2ND CAUSE to TAMMY WARREN sent via Regular M
8/11/2016	FED 2ND CAUSE notice sent to TAMMY WARREN via Certified Mail
8/11/2016	FED 2ND CAUSE notice sent to TAMMY WARREN via Bailiff in Eu
8/11/2016	Hearing Scheduled Notice sent to DANIEL MIERAS

8/11/2016	<u>Paid \$25.74 for Cost/LEGAL AID - STATE receipt# 2016313592</u>
8/11/2016	<u>Paid \$10.00 for Cost/CIVIL COMPUTER FUND receipt# 201631359</u>
8/11/2016	<u>Paid \$94.00 for Cost/CIVIL FILING FEE receipt# 2016313592 b</u>
8/11/2016	<u>Paid \$0.26 for Cost/LEGAL AID - CITY receipt# 2016313592 by</u>
8/11/2016	<u>Paid \$10.00 for Cost/CIVIL SPECIAL PROJECTS receipt# 201631</u>
8/11/2016	<u>Original Claim for \$15000.00 Filed, DANIEL MIERAS</u>
8/11/2016	<u>1st Cause/Judge set for 09/06/2016 at 09:00 AM in room 2</u>

Limitation on Liability.

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